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Judge Berman

'08 CIV 36417

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

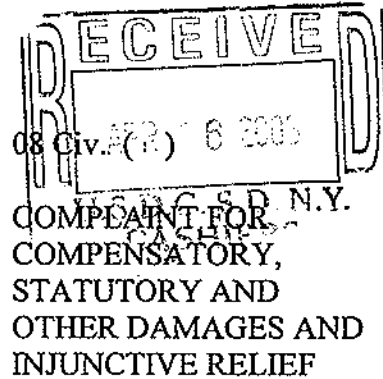
GETTY IMAGES (US), INC.,

Plaintiff,

-against-

FIRST NATIONAL BANK OF LONG ISLAND

Defendants.



Plaintiff, Getty Images (US), Inc., by its undersigned attorneys Satterlee Stephens Burke & Burke LLP, for its Complaint against First National Bank of Long Island, alleges, upon information and belief, as follows:

PARTIES

1. Getty Images (US), Inc. ("Getty Images") is a New York corporation with its principal place of business at 601 North 34th Street, Seattle, Washington.

2. Defendant First National Bank of Long Island ("FNB") is a Bank with several branches located in New York State. Upon information and belief, at all times relevant to the allegations in this complaint, Defendant maintained a place of business at, among other locations, 1501 Broadway, Suite 301, New York, NY 10036.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338 (copyright) in that this case involves claims brought under federal copyright law, 17 U.S.C. § 101 et seq.

4. Personal jurisdiction and venue are proper in this District pursuant to 28 U.S.C. §1400(a) because Defendant may be found in this District.

BACKGROUND

5. Plaintiff Getty Images is one of the world's leading content providers, supplying high quality, relevant imagery and related services to advertising agencies, graphic design firms, and film and broadcasting companies, to editorial customers involved in newspaper, magazine, book, CD-ROM and online publishing, and to corporate marketing departments and other business customers. Getty Images generates revenue from licensing the rights to use its imagery and from providing related services. Revenue is principally derived from a large number of relatively small transactions involving licensing rights to use single still images, film clips or CDs containing multiple images.

6. Most of the images in Getty Images's creative collections are obtained from independent photographers and filmmakers on an exclusive basis. Professional photographers and filmmakers prefer to retain ownership of their work. As a result, copyright to an image remains with the contributing photographer or filmmaker in most cases.

7. Getty Images was the first company to license imagery via the Internet and today delivers virtually all of its visual content digitally. Getty Images's web site, [gettyimages.com](http://gettyimages.com), serves an average of 3.2 million thumbnails, 6.5 million visits and 3.5 million unique users in addition to an average of 167 million page views each month. Visitors to Getty

Images's web site can search through and view hundreds of thousands of images and obtain licenses for those images online.

8. Upon information and belief, FNB owns and operates a web site at <http://www.fnbli.com/>. Defendant FNB holds itself out to be "a full service commercial bank which provides a broad range of financial services to individual, professional, corporate, institutional and government customers through its branch system on Long Island and in Manhattan." <http://www.fnbli.com/page.cfm?id=978>.

9. On May 31, 2006, Plaintiff discovered that Defendant had obtained copies of twenty-four images exclusively licensed to Getty Images and incorporated those images into the web site <http://www.fnbli.com/index.cfm>. This use was continuous and ongoing until approximately January of 2007. The date on which Defendant began using these images is unknown. Defendant's use of the twenty-four images was unauthorized and violated the rights of Getty Images and of the authors of those images.

10. One of the images copied by Defendant and incorporated into the <http://www.fnbli.com/> web site was an image identified as Image No. 10171377, entitled "Tractor, Tuscany," from the Image Bank Collection.

11. Image No. 10171377 was registered with United States Copyright Office on December 6, 2007, Registration Number VA-1-623-584.

12. One of the images copied by Defendant and incorporated into the <http://www.fnbli.com/> web site was an image identified as Image No. 10155219, entitled "Caduceus & EKG," from the Image Bank Collection.

13. Image No. 10155219 was registered with United States Copyright Office on December 7, 2007, Registration Number VA-1-623-800.

14. One of the images copied by Defendant and incorporated into the <http://www.fnbli.com/> web site was an image identified as Image No. 872549-004, entitled "Businessman Filling out Deposit Slip in Bank," from the Stone Collection.

15. Image No. 872549-004 was registered with United States Copyright Office on December 6, 2007, Registration Number VA-1-623-581.

16. One of the images copied by Defendant and incorporated into the <http://www.fnbli.com/> web site was an image identified as Image No. 200020463-001, entitled "Businessmen Meeting at Round Table in Conference Room, High Angle View," from the Photographer's Choice Collection.

17. Image No. 200020463-001 was registered with United States Copyright Office on December 6, 2007, Registration Number VA-1-623-593.

18. One of the images copied by Defendant and incorporated into the <http://www.fnbli.com/> web site was an image identified as Image No. 10169198, entitled Businesswoman Shaking Man's Hand.

19. Image No. 10169198 was registered with United States Copyright Office on October 5, 2000, Registration Number VAu-502-356.

20. One of the images copied by Defendant was an image identified as Image No. 10085369 entitled Executives at Construction Site in New Mexico.

21. Image No. 10085369 was registered with the United States Copyright Office on December 11, 2007, Registration Number VA-1-623-828.

22. One of the images copied by Defendant was an image identified as Image No. AT3336-001 entitled Woman Writing Cheque with Pen, Close-up of Hands.

23. Image No. AT3336-001 was registered with the United States Copyright Office on December 11, 2007, Registration Number VA-1-624-110.

24. Copies of the Certificates of Registration for Image Nos. 10171377, 10155219, 872549-004, 200020463-001, 10169198, 10085369, and AT3336-001 are attached hereto as Exhibit A.

25. Defendant also copied into the FNB web sites 17 other images exclusively licensed to Getty without authorization or license.

26. Attached hereto as Exhibit B are screen shots of the FNB web site found at [www.fnbli.com/](http://www.fnbli.com/) showing web pages that incorporate unauthorized copies of images exclusively licensed to Getty Images.

27. The Defendant's unauthorized use of copyright protected images has caused Getty Images to suffer damages.

FIRST CAUSE OF ACTION -- COPYRIGHT INFRINGEMENT

28. Plaintiff Getty Images incorporates paragraphs 1 through 27 above, as though fully set forth herein.

29. Getty Images is the exclusive licensee of the images that are the subject of this action. Those images have validly registered copyrights, as evidenced by the copyright registration certificates contained in Exhibit A.

30. Defendant reproduced, distributed and displayed those images without Getty Images's authorization.

31. The actions and conduct by Defendant as described above infringe upon Getty Images's exclusive rights granted under 17 U.S.C. § 106 to display, reproduce and distribute the registered copyrighted works to the public.

32. Defendant's actions and conduct constitute copyright infringement under the Copyright Act of 1976, 17 U.S.C. § 501.

33. Image No. 10169198 was registered with United States Copyright Office on October 5, 2000, Registration Number VAu-502-356. Upon information and belief, this registration pre-dates the Defendant's infringing use of this image.

34. As a result of the copyright infringement described above, Plaintiff Getty Images is entitled to relief including, but not limited to, injunctive relief, actual or statutory damages, statutory costs and attorneys' fees, and pre-judgment interest.

WHEREFORE, Plaintiff Getty Images prays for the following relief:

A. For an award of Defendant's profits and for damages in such amount as may be found; for an award statutory damages pursuant to 17 U.S.C. § 504(c) of up to \$150,000 based upon Defendant's willful infringement of Image No. 10169198; for an order permanently enjoining Defendant from infringing Plaintiff's copyrighted images pursuant to 17 U.S.C. § 502; and for an award of costs and attorneys' fees for infringement of Image No. 10169198 pursuant to 17 U.S.C. § 505;

B. For prejudgment interest on the amount of the award to Plaintiff; and

C. And for such other and further relief as the Court deems just and proper.

Dated: New York, New York  
April 15, 2008

SATTERLEE STEPHENS BURKE & BURKE LLP

by 

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## Public Catalog

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1623800

*Caduceus & EKG. Getty Images number 10155219.*

**Type of Work:** Visual Material

**Registration Number / Date:** VA0001623800 / 2007-12-07

**Application Title:** Caduceus & EKG. Getty Images number 10155219.

**Title:** Caduceus & EKG. Getty Images number 10155219.

**Description:** Electronic file (eService)

**Copyright Claimant:** Gary S. Chapman, 1956- . Address: 150 Gill Lane, Stockbridge, GA, 30281, United States

**Date of Creation:** 1999

**Date of Publication:** May 03, 1999

**Nation of First Publication:** United States

**Authorship on Application:** Gary S. Chapman, 1956- ; Domicile: United States; Citizenship: United States.  
Authorship: photograph(s)

**Names:** Chapman, Gary S., 1956-



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*Businessman filling out deposit slip in bank. Getty Images number 872549-004.*

**Type of Work:** Visual Material

**Registration Number / Date:** VA0001623581 / 2007-12-06

**Application Title:** Businessman filling out deposit slip in bank. Getty Images number 872549-004.

**Title:** Businessman filling out deposit slip in bank. Getty Images number 872549-004.

**Description:** Electronic file (eService)

**Copyright Claimant:** Robert Bruce Ayres, 1951- . Address: 31226 Bailard Rd., Malibu, CA, 90265, United States

**Date of Creation:** 1998

**Date of Publication:** January 01, 1999

**Nation of First Publication:** United States

**Authorship on Application:** Robert Bruce Ayres, 1951- ; Domicile: United States; Citizenship: United States.  
Authorship: photograph(s)

**Names:** Ayres, Robert Bruce, 1951-



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*Businessmen meeting at round table in conference room, high angle view. ...*

**Type of Work:** Visual Material

**Registration Number / Date:** VA0001623593 / 2007-12-06

**Application Title:** Businessmen meeting at round table in conference room, high angle view. Getty Images number 200020463-001.

**Title:** Businessmen meeting at round table in conference room, high angle view. Getty Images number 200020463-001.

**Description:** Electronic file (eService)

**Copyright Claimant:** David H Joel, 1950-. Address: 2118 N Kenmore Ave., Chicago, IL, 60614, United States

**Date of Creation:** 2000

**Date of Publication:** April 11, 2003

**Nation of First Publication:** United States

**Authorship on Application:** David H Joel, 1950- ; Domicile: United States; Citizenship: United States. Authorship: photograph(s)

**Names:** Joel, David H, 1950-



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**LEFT ANCHORED**

*Don Klumpp unpublished, 4/00-8/00 : no. 4001-4004, 5001, 7001, 8001-8002.*

**Type of Work:** Visual Material

**Registration Number / Date:** VAu000502356 / 2000-10-05

**Title:** Don Klumpp unpublished, 4/00-8/00 : no. 4001-4004, 5001, 7001, 8001-8002.

**Description:** Photos.

**Copyright Claimant:** Don Klumpp, 1935-

**Date of Creation:** 2000

**Variant title:** Don Klumpp unpublished, 4/00-8/00 : no. 4001-4004, 5001, 7001, 8001-8002

**Names:** Klumpp, Don, 1935-



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*Executives at construction site in New Mexico. Getty Images number 10085369.*

**Type of Work:** Visual Material

**Registration Number / Date:** VA0001623828 / 2007-12-11

**Application Title:** Executives at construction site in New Mexico. Getty Images number 10085369.

**Title:** Executives at construction site in New Mexico. Getty Images number 10085369.

**Description:** Electronic file (eService)

**Copyright Claimant:** Marc Romanelli, 1955- . Address: 21 Cougar Ridge, Santa Fe, NM, 87505, United States

**Date of Creation:** 1996

**Date of Publication:** May 06, 1996

**Nation of First Publication:** United States

**Authorship on Application:** Marc Romanelli, 1955- ; Domicile: United States; Citizenship: United States.  
Authorship: photograph(s)

**Names:** Romanelli, Marc, 1955-



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*Woman writing cheque with pen, close-up of hands. Getty Images number...*

**Type of Work:** Visual Material

**Registration Number / Date:** VA0001624110 / 2007-12-17

**Application Title:** Woman writing cheque with pen, close-up of hands. Getty Images number AT3336-001

**Title:** Woman writing cheque with pen, close-up of hands. Getty Images number AT3336-001

**Description:** Electronic file (eService)

**Copyright Claimant:** Stewart L Tilger, 1951- . Address: 3307 38th Avenue W, Seattle, WA, 98199, United States

**Date of Creation:** 1998

**Date of Publication:** June 30, 1999

**Nation of First Publication:** United States

**Authorship on Application:** Stewart L Tilger, 1951- ; Domicile: United States; Citizenship: United States.  
Authorship: photograph(s)

**Names:** Tilger, Stewart L, 1951-



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